

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

GENET MCCANN

Plaintiff,

vs.

WARD TALEFF, ET AL.,

Defendants.

CV 18-115-GF-BMM

ORDER

This Court previously dismissed with prejudice all of Plaintiff Genet McCann's (McCann) claims. (Doc. 77 at 17.) McCann timely filed a notice of appeal of that decision on August 26, 2019. (Doc. 81.) McCann also filed two separate motions in this Court under Federal Rules of Civil Procedure 60(b)(4) and 15 to set aside the previous dismissal and grant her leave to file a first amended complaint. (Doc. 79 and Doc. 82.)

"The filing of a notice of appeal . . . confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal." *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982) (per curiam); *Townley v. Miller*, 693 F.3d 1041, 1042 (9th Cir. 2012) (holding that under *Griggs* the appellate court has jurisdiction over appeals from a

district court order); *BNSF Ry. Co. v. Feit*, No. 10-cv-54, No. 11-cv-01, 2014 WL 12769807, at *1 (D. Mont. Apr. 2, 2014) (same). McCann's Notice of Appeal divests this court of jurisdiction over her Rule 60 motion because the motion involves the same issues now on appeal.

ORDER

Accordingly, **IT IS ORDERED** that McCann's Rule 60 Motion to Set Aside Judgment and Request Leave to Amend (Doc. 79) and McCann's Rule 60 Motion to Set Aside Judgment and Request Leave to Amend (Doc. 82) are **DENIED**, subject to renewal following the Ninth Circuit Court of Appeals' decision on the pending appeal.

DATED this 28th day of August 2019.



Brian Morris
United States District Court Judge